

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

TERRANCE PAUL MCABEE, Movant, vs. UNITED STATES OF AMERICA, Respondent.	4:18-CV-04075-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING MOTION
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Petitioner, Terrance Paul McAbee, filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. Docket 1. The court referred the motion to Magistrate Judge Veronica Duffy. On July 3, 2018, Magistrate Judge Duffy submitted a report and recommended that McAbee's petition be dismissed or transferred to the Eighth Circuit Court of Appeals. Docket 6. The time for objections has passed and no objections to the report and recommendation have been filed under 28 U.S.C. § 2254, Rule 8(b)(3). The court has considered the case de novo and adopts the report and recommendation in full. Thus, it is

ORDERED that the magistrate judge's report and recommendation (Docket 6) is adopted in full and McAbee's motion under 28 U.S.C. § 2255 (Docket 1) is dismissed without prejudice, pending permission by the Eighth Circuit Court of Appeals to file a second or successive § 2255 petition.

DATED this 26th day of July, 2018.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE